

TOBEROFF & ASSOCIATES, P.C.

23823 MALIBU ROAD, SUITE 50-363
MALIBU, CALIFORNIA 90265

Tel: (310) 246-3333 / Fax: (310) 246-3101
mtoberoff@toberoffandassociates.com

February 10, 2023

Via CM/ECF

The Honorable Gabriel W. Gorenstein
U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

RE: *Marvel Characters, Inc. v. Lieber*, No. 1:21-cv-07955-LAK; *Marvel Characters, Inc. v. Ditko*, No. 1:21-cv-07957-LAK; *Marvel Characters, Inc. v. Dettwiler*, No. 1:21-cv-07959-LAK—Application for Settlement Conference by Video

Dear Judge Gorenstein:

We represent Defendants Lawrence D. Lieber, Patrick S. Ditko, and Keith A. Dettwiler (“Defendants”) in the above-referenced consolidated cases and write pursuant to Your Honor’s Orders Scheduling Settlement Conference (*Marvel v. Lieber*, Dkt. 56; *Marvel v. Ditko*, Dkt. 51; *Marvel v. Dettwiler*, Dkt. 54) (collectively, the “Order”). Per the Order, we submit this application to request the settlement conference scheduled for March 14, 2023 at 10:00 a.m. be conducted by video, or in the alternative, by telephone.

Good cause exists to warrant conducting the conference by video. Mr. Lieber is 90 years old, and Mr. Ditko, who is 88 years old, lives in Western Pennsylvania, more than 300 miles from the Courthouse. Further, we are informed that Mr. Ditko’s doctor does not permit him to fly. Conducting the conference by video will also conserve significant time and expense of the parties and their counsel, as lead counsel for Plaintiff Marvel Characters, Inc. (“Marvel”) and lead counsel for Defendants are both located in Los Angeles, California.

When informed of Defendants’ intention to make this request, Marvel did not object to it and advised us that it will defer to Your Honor’s decision with respect to conducting the conference by video.

We are available, at the Court’s convenience, to provide additional information and answer any questions.

Respectfully submitted,

/s/ Marc Toberoff

Marc Toberoff
Toberoff & Associates, P.C.
Attorneys for Defendants